

RESOLUTION NO. 95-63

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ESTABLISHING PROCEDURES GOVERNING EMPLOYER-EMPLOYEE ORGANIZATION RELATIONS.

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. STATEMENT OF PURPOSE - EMPLOYER-EMPLOYEE RELATIONS.

This statement is adopted as authorized under Chapter 10, Division 4, Title 1, of the California Government Code (Section 3500, et seq.), captioned "Public Employees Organizations," to provide reasonable and orderly procedures for the administration of employer-employee relations between the City and its employees, procedures for the recognition of employee organizations, and a reasonable and orderly method for the resolution of questions regarding wages, hours, and other terms and conditions of employment of employees of the City.

SECTION 2. DEFINITIONS.

Except as otherwise specifically provided below, the terms used shall be defined in the same way as such terms are defined in Government Code Section 3500, et seq. In addition, the following definitions are adopted for terms used:

APPROPRIATE UNIT: A unit of employee classes or positions established pursuant to Section 12 hereof.

CITY: The City of Costa Mesa, a municipal corporation, and where appropriate herein, "City" refers to the City Council, the governing body of said City, or any duly authorized representative of the City of Costa Mesa.

CONSULT OR CONSULTATION IN GOOD FAITH: To communicate orally or in writing for the purpose of presenting and obtaining views, and advising of intended action.

DAYS: Calendar days, unless otherwise stated.

EMPLOYEE: Any person regularly employed by the City of Costa Mesa, except those persons elected by popular vote.

EMPLOYEE, CONFIDENTIAL: Any employee whose normal duties would give the employee access to decisions or the decision-making processes of the City concerning any matters relating to employer-employee relations.

EMPLOYEE, MANAGERIAL: Any employee having significant responsibilities for formulating and administering City policies and programs including, but not limited to, the City Manager and all department heads. Also, any employee having access to information relating to the City's administration of employer-employee relations and having authority to hire, transfer, suspend, lay off, rehire, promote, discharge, assign or reward other employees; and to evaluate or review the performance of other employees; and having the responsibility to direct them or to adjust their grievances; or effectively recommend any of the above actions if, in connection with the foregoing, the exercise of such authority is not merely of a routine or clerical nature but requires the use of independent judgment; provided that the following shall be considered management employees.

EMPLOYEE, SUPERVISORY: Any employee having advisory authority to hire, transfer, suspend, promote, discharge, assign other employees; or to evaluate or review the

performance of other employees; and having the responsibility to direct them and to adjust their grievances, or to recommend such actions if, in connection with the foregoing, the exercise of such authority is not merely of a routine or clerical nature but requires the use of independent judgment.

EMPLOYEE RELATIONS OFFICER: The City's principal representative in all matters of employer-employee relations, or his/her duly authorized representative.

EMPLOYEE REPRESENTATIVE: The authorized representative of a recognized employee organization.

EMPLOYER-EMPLOYEE RELATIONS: The relationship between the City and its employees and their employee organization, or when used in a general service, the relationship between City management and individual employees or employee organizations.

EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATION: An employee organization which has been formally acknowledged by the City as the sole employee organization representing the employees in an appropriate representation unit pursuant to Section 8 hereof, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

IMPASSE: The Employee Relations Officer and a recognized employee organization have been unable to reach agreement concerning a subject over which they are required to meet and confer in good faith and their differences remain so substantial and prolonged that further meeting and conferring would be futile.

MEDIATION: The effort by an impartial third party functioning as intermediary to assist the City and a recognized employee organization in voluntarily reaching an accord where there has been an impasse regarding wages, hours or other terms and conditions of employment which are within the scope of representation.

MEET AND CONFER: The mutual obligation of the City and the recognized employee association to promptly meet and confer upon the request of the other party for a reasonable period of time in order to freely exchange information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the City.

SCOPE OF REPRESENTATION: All matters relating to employment conditions and employer-employee relations including, but not limited to wages, hours and other terms and conditions of employment; except, however, that the Scope of Representation shall not include consideration of the merits, necessity or organization of any service or activity provided by law or executive order, all as set forth in Section 4.

SECTION 3. EMPLOYEE RIGHTS.

Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on matters within the scope of representation.

Employees of the City shall also have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City.

No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by any employee organization because of the exercise of these rights.

Except as other-wise provided herein, management, and confidential employees may not represent any employee organization which represents other employees of the City on matters within the scope of representation and management, and confidential employees may not engage

in any activity with or on behalf of any employee organization which would result in an actual or apparent conflict of interest.

SECTION 4. CITY RESPONSIBILITIES AND RIGHTS.

In order to insure that the City is able to carry out its functions and responsibilities imposed by law, the City has and will retain the exclusive right to manage and direct the performance of City services and the work force performing such services and, therefore, except as other-wise provided herein by Government Code Section 3500 et seq., such right of representation does not extend to those things which are necessary to manage, control, and administer the City's operations including, but not limited to, determining the mission of the City's constituent departments, commissions, and boards; setting standards of service, **determining the procedures and standards of selection for employment and promotions;** **directing** employees; taking disciplinary action; **relieving employees from duty** because of lack of work or other legitimate reasons maintaining the efficiency of governmental operations; determining the methods, means, and personnel by which governmental operations are to be conducted; determining the content of job classifications; taking all necessary actions to carry out the City's mission in emergencies; exercising control and discretion over the City's organization and the technology of performing its work; regulating the use of all equipment and other property of the City; establishing, altering or disposing of operations, departments, commissions or boards; determining the work to be contracted out; and determining the complement of employees needed or assigned to a particular function or work location.

SECTION 5. FILING OF RECOGNITION PETITION BY EMPLOYEE ORGANIZATION.

An employee organization that seeks to be formally acknowledged as the Exclusively Recognized Employee Organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation. This requirement is necessary for existing organizations in any year that an MOU must be renewed or renegotiated:

- (a) Name and address of the employee organization;
- (b) Names and titles of its officers;
- (c) Names and addresses of no more than two employee representatives to whom notice, if sent by regular United States mail, will be deemed sufficient notice of the employee organization for all purposes;
- (d) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City;
- (e) A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization;
- (f) A certified copy of the employee organization's constitution and bylaws which shall contain a statement that the employee organization has, as one of its primary purposes, the representation of employees in their employment relations with the City;
- (g) A statement that the employee organization has no restriction on membership based on race, color, creed, sex, national origin, age or disability;
- (h) The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein;
- (i) A statement that the employee organization has in its possession membership affidavits, on forms provided by the City, containing the signatures of members

and other information deemed necessary by the Employee Relations Officer to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. **Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party;**

A request that the Employee Relations Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

SECTION 6. CITY RESPONSE TO RECOGNITION PETITION.

Upon receipt of the Petition, the Employee Relations Officer shall determine whether:

- (a) There has been compliance with the requirements of the Recognition Petition; and
- (b) The proposed representation unit is an appropriate unit in accordance with Section 12 of this Resolution.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, the Employee Relations Officer shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization, and, if a unit determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal a unit determination in accordance with Section 14 of this Resolution.

SECTION 7. OPEN PERIOD FOR FILING CHALLENGING PETITION.

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Section 5 of this Resolution. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in Section 12 of this Resolution. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 14 of this Resolution.

SECTION 8. RECOGNITION OF EMPLOYEE ORGANIZATION.

The City Clerk shall formally acknowledge and certify that an employee organization is a Recognized Employee Organization as a Unit of Representation upon advice of the Employee Relations Officer that such certification will meet the following terms and conditions:

That the employee organization has complied with all of the requirements of Section 5.

That there is reasonable proof that the organization represents a majority of the **City's employees** in an established unit of representation, based upon written evidence executed within three months preceding the filing of the petition, showing that a majority of the employees in such unit are members in good standing of said employee organization, and desire the same to represent them in employment relations with the City. The Employee Relations Officer in his discretion, may require in addition to a showing that a majority of the employees in such group are members of said employee organization, a secret ballot election conducted by the City Clerk in which a majority of the employees in said unit have voted for such organization. Such an election must be conducted if two or more employee organizations have submitted evidence that each such organization has among its members fifty (50) percent or more of the employees in the unit of representation.

SECTION 9. ELECTION PROCEDURE.

The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization (s), in accordance with its rules and procedures subject to the provisions of this Resolution. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Resolution shall be included on the ballot. The choice of "No Organization" shall also be included on the ballot. Employees entitled to vote in such election shall be those persons employed within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the City in the same unit on the date of the election. An employee organization shall be formally acknowledged as an Exclusively Recognized Employee Organization for the designated appropriate unit following an election or runoff election if it received a numerical majority of all valid votes cast in the election. In an election involving three (3) or more choices, where none of the choices receives a majority of the valid votes cast, a runoff election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a runoff election.

There shall be no more than one (1) valid election under this Resolution pursuant to any petition in a 12-month period affecting the same unit.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Mediation and Conciliation Service.

Costs of conducting elections shall be borne in equal shares by the City and by each employee organization appearing on the ballot.

SECTION 10 REVOCATION OF RECOGNITION OF EMPLOYEE ORGANIZATION

Recognition of a recognized employee organization may be revoked on the following grounds:

- A. Upon determination by the City Council after notice and hearing that the employee organization has violated any of the employee rights set forth in Section 3, or upon determination made pursuant to Section 11.
- B. After a secret ballot election conducted by the City Clerk in which it has been determined that a majority of the employees in the unit of representation no longer wish to be represented by said employee organization. Such an election may be held only in the following instances:

- (1) Pursuant to the filing of a petition by another employee organization in compliance with all of the requirements of Section 5 provided that such organization submits evidence that it has among its members fifty (50) percent of the employees in said unit of representation;
- (2) Or, pursuant to a petition requesting an election filed by at least thirty (30) percent of the employees in the Unit of Representation for which said employee organization was recognized.

No such petitions may be filed within one year from the date of the initial **recognition of the employee organization**. Subsequent to said initial recognition and said one year period, such petitions may be filed only during the month of February or during the thirty (30) day period commencing one hundred fifty (150) days prior to the termination of a Memorandum of Understanding that has been in effect less than three (3) years, whichever occurs later.

SECTION 11. PROCEDURE FOR DECERTIFICATION OF EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATION.

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of February of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred fifty (150) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years, whichever occurs later. A Decertification Petition may be filed by two (2) or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

- (a) The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- (b) The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as the representative of that unit.
- (c) An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
- (d) Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this section in the form of a Recognition Petition that evidences proof of employee support of at least fifty (50) percent and otherwise conforms to the requirements of Section 5 of this Resolution.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Section or Section 5 of this Resolution. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization, and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 14 of this Resolution. If the determination of the Employee Relations Officer is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written

notice of such decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification, and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 9 of this Resolution.

During the "open period" specified in the first paragraph of this Section, the Employee Relations Officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent Exclusively Recognized Employee Organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue. In such event any other employee organization may within fifteen (15) days of such notice file a Recognition Petition in accordance with Section 5, which the Employee Relations Officer shall act on in accordance with Sections 6 through 9 herein.

If pursuant to this Section a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall upon certification assume all representational rights and obligations and shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

SECTION 12. POLICY AND STANDARDS FOR DETERMINATION OF APPROPRIATE UNITS.

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

- (a) Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- (b) History of representation in the City and similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
- (c) Consistency with the organizational patterns of the City.
- (d) Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.
- (e) Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classification among two (2) or more units.

Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in Section 2 of this Resolution, are determining factors in establishing appropriate units hereunder.

Notwithstanding the foregoing provisions of this Section and Section 3, the City Council hereby designates the classifications and positions of Police Officer, Police Sergeant, and Police Lieutenant as having duties consisting primarily of the enforcement of State and local laws, and employees in these classifications and positions shall be limited to forming, joining, participating and being represented by the same employee organizations which are composed solely of such law enforcement employees, which concern themselves solely and exclusively with the wages,

hours, working conditions, welfare programs, and advancement of the academic and vocational training in furtherance of the police profession, and which are not subordinate to any other organization.

The Employee Relations Officer shall, after notice to and in consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section.

SECTION 13. PROCEDURE FOR MODIFICATION OF ESTABLISHED APPROPRIATE UNITS.

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Section 11 of this Resolution. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to the requirements set forth in Section 5 of this Resolution, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 12 hereof. The Employee Relations Officer shall process such petitions in the same way as other Recognition Petitions under Sections 5 through 9 of this Resolution.

The Employee Relations Officer may on his own motion propose during the period specified in Section 11 of this Resolution that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall meet and confer with said affected organization concerning the proposed modification (s). In the event agreement is not reached, the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 12 of this Resolution and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 14 of this Resolution. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the exclusively recognized Employee Organization for such new appropriate unit or units pursuant to Sections 5 through 9 hereof.

SECTION 14. APPEALS.

An employee organization aggrieved by a denial of their petition or an appropriate unit determination of the Employee Relations Officer under this Resolution may, with the concurrence of the City, within ten (10) days of notice thereof, request the intervention of the California State Mediation and Conciliation Service pursuant to Government Code Sections 3507.1 and 3507.3.

In the event the dispute remains unresolved or mediation was not agreed upon, either party may appeal to the City Council, within fifteen (15) days of notice of the Employee Relations Officer's determination or the termination of proceedings pursuant to Government Code Sections 3507.1 and 3507.3, whichever is later. Appeals to the City Council, by either the City or the employee organization, shall be filed in writing with the City Clerk, and a copy thereof served on the Employee Relations Officer.

The City Council shall refer the dispute to a third party hearing officer. The third party hearing officer shall submit advisory recommendations to the City Council within thirty (30) days from the closure of the hearing. The City Council, within thirty (30) days, shall adopt, reject, or modify the recommendations of the hearing officer. The decision of the City Council shall be final.

The third party hearing officer shall be selected from a list of ten (10) names provided by the California State Mediation and Conciliation Services through the alternate striking of names. All related costs of the hearing shall be borne equally by the parties.

SECTION 15. SUBMISSION OF CURRENT INFORMATION BY RECOGNIZED
EMPLOYEE ORGANIZATIONS.

All changes in the information filed with the City by an Exclusively Recognized Employee Organization under items "a" through "h" of its Recognition Petition under Section 5 of this Resolution shall be submitted in writing to the Employee Relations Officer within thirty (30) days of such change.

SECTION 16. EMPLOYEE ORGANIZATION ACTIVITIES--USE OF CITY
RESOURCES.

Access to City work locations and the use of City paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memoranda of Understanding approved by the City Council and/or by administrative procedures, and shall be limited to lawful activities consistent with the provisions of this Resolution that pertain directly to the employer-employee relationship and not internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections (except where the City Manager finds that it is not reasonably possible for a Recognized Employee Organization to conduct an organizational meeting at a time when a significant number of affected employees are not scheduled to be on duty). In no event shall such activities be permitted to interfere with the efficiency, safety and security of City operations.

SECTION 17. ADMINISTRATIVE RULES AND PROCEDURES.

The City Manager is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Resolution after consultation with affected employee organizations.

SECTION 18. MEETING AND CONFERRING.

The City, through its representatives, shall meet and confer in good faith with employee representatives of any recognized employee organization regarding matters within the scope of representation, including, but not limited to wages, hours and other terms and conditions of employment for its members in the employee group for which such organization is recognized. The City shall not be required to so meet and confer on the following matters; unless said matters are determined as to be within the scope of the Myers-Milias Brown Act.

- (1) Any subject preempted by federal or state law.
- (2) Any of the matters specified in Section 4 of this Resolution.
- (3) Any amendments or proposed amendments to this Resolution.

Where recognized employee organization desires to meet with the City through its representatives on matters within the scope of representation, said organization shall make a request in writing and specify the subjects to be discussed. It is the desire of the City that such notice be provided 90 days in advance of the end date of the existing Memorandum of Understanding. To provide for a reasonable expectation of a successful process, the employee organization must make their requests known to the Employee Relations Officer not less than thirty (30) days prior to the end of its existing Memorandum of Understanding. Promptly after such request has been made, a meeting shall be arranged at a time and place mutually satisfactory to the parties involved.

Where the City proposes to take action on matters within the scope of representation which are not otherwise set forth in effective Memorandum of Understanding, whether such action be by ordinance, resolution, rule or regulation, reasonable written notice shall be given to each recognized employee organization affected thereby, and each shall be given the opportunity to meet with the City through its representatives, prior to the adoption of same. In cases of emergency, when the City Council of the City of Costa Mesa determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or

meeting with any recognized employee organization, the City shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of same.

Upon a reasonable notice by the City, the employee representatives of recognized employee organizations shall be required to meet and confer in good faith jointly with the City's representatives when requested to do so by the Employee Relations Officer. The recognized employee organization shall be deemed conclusively to have waived any rights to meet and confer as to any matter so noticed by the City if, within fourteen (14) days after receipt of said notice, said employee organization fails to deliver to the City a written request for a meeting.

If agreement is reached by the representatives of the City and the recognized employee organization, all agreed matters shall be incorporated as joint recommendations to the City Council in a written Memorandum of Understanding signed by the Employee Relations Officer or his designee, and the duly authorized employee representatives. Said Memorandum of Understanding shall not be binding, but said joint recommendation shall be submitted to the City Council for its determination.

In the event there is a dispute over the scope of representation or as to whether a matter is subject to meeting and conferring in good faith, either party may submit the issue for mediation to the State Conciliation Service by written request with a copy addressed to the other party. If such dispute is not resolved within ten (10) days after such submission, it shall be submitted to the City Council for its final determination.

SECTION 19. CONSULTATION IN GOOD FAITH.

The City, through its representatives, shall consult in good faith with representatives of existing employee organizations which include employees of the City, prior to the adoption of any rules and regulations for the administration of employer-employee relations, including any amendments to this policy.

SECTION 20. EMPLOYEE RELATIONS OFFICER.

The City Council shall designate by resolution an Employee Relations Officer who need not be an employee of the City and who shall be the City's principal representative on all matters of employer-employee relations, with authority to meet and confer in good faith on matters within the scope of representation, including wages, hours and other terms and conditions of employment. The Employee Relations Officer may adopt reasonable rules or regulations for the conduct of elections by the City Clerk provided for in Sections 8 and 9, and the imposition of sanctions provided for in Section 10, subject to approval by the City Council.

SECTION 21. MEDIATION.

Any impasse as defined in this Resolution may with mutual agreement be settled in the following manner:

- (1) Either party may make a written request for mediation of any failure to agree. Agreement to proceed with mediation between the Employee Relations Officer and the recognized employee organization shall be made or rejected within five (5) days after the receipt of said written request for mediation.
- (2) The mediator shall meet with the parties in private to aid in a voluntary adjustment of the failure to agree. He shall make no findings of fact, nor shall he make any public

recommendations or take any public positions. The fees of the mediation shall be shared equally by the parties.

- (3) Mediation must be completed within twenty (20) days after the first scheduled date with a mediator. In the event that the mediation process has not been completed within said period, all unresolved issues may, at the request of either party, be submitted to the City Council for its final determination.

SECTION 22. STRIKES AND WORK STOPPAGES.

In the event of an illegal strike, work stoppage, slowdown, sick-in or other concerted refusal to work by employees, the City may employ any lawful remedies or disciplinary actions against both the employee organization and the employees engaging in the illegal work action.

SECTION 23.

The City Clerk shall certify the adoption of this Resolution.

PASSED AND ADOPTED this 7th day of August, 1995.

Mayor of the City of Costa Mesa

ATTEST:

Deputy City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE ss
CITY OF COSTA MESA

I, MARY T. ELLIOTT, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Resolution No. 95-63 was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 7th day of August, 1995.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this 8th day of August, 1995.

Deputy City Clerk and ex-officio Clerk of the City
Council of the City of Costa Mesa

APPROVED AS TO FORM AND CONTENT:

City Attorney